

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kristen McConnell	Team: Team # 2	CCRB Case #: 200703358	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/06/2007 7:00 PM	Location of Incident: St. John's Place and Albany Avenue	Precinct: 77	18 Mo. SOL 9/6/2008	EO SOL 9/6/2008	
Date/Time CV Reported Fri, 03/09/2007 4:03 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 03/09/2007 4:03 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Maribel Sarante	10211	931973	077 PCT
2. POM Eddy Linares	20761	933933	077 PCT
3. POM John Acconi	05075	919972	077 PCT
4. SGT Steven Talvy	05408	901056	077 PCT
5. POM Nicholas Tricarico	26212	934224	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Maribel Sarante	Abuse: PO Maribel Sarante stopped § 87(2)(b) and § 87(2)(b)	
B.POM John Acconi	Force: PO John Acconi used physical force against § 87(2)(b)	
C.POM Eddy Linares	Force: PO Eddy Linares used physical force against § 87(2)(b) and § 87(2)(b)	
D.POM Eddy Linares	Force: PO Eddy Linares struck § 87(2)(b) with an asp.	
E.POM Nicholas Tricarico	Force: PO Nicholas Tricarico used physical force against § 87(2)(b)	
F.SGT Steven Talvy	Force: Sgt. Steven Talvy used physical force against § 87(2)(b)	
G.POM Eddy Linares	Force: PO Eddy Linares used a chokehold against § 87(2)(b)	
H.POM Eddy Linares	Abuse: PO Eddy Linares threatened § 87(2)(b) with the use of force.	
I.SGT Steven Talvy	Discourtesy: Sgt. Steven Talvy spoke obscenely and/or rudely to § 87(2)(b)	
J.POM John Acconi	Abuse: PO John Acconi strip-searched § 87(2)(b)	
K.POM Eddy Linares	Abuse: PO Eddy Linares strip-searched § 87(2)(b)	
L.POF Maribel Sarante	Abuse: PO Maribel Sarante strip-searched § 87(2)(b)	

### Synopsis

On March 6, 2007, at approximately 7 pm, § 87(2)(b) briefly entered a liquor store at the corner of St. John's Place and Albany Avenue in Brooklyn and then returned to his car, turned the corner and parked, and exited the car with his girlfriend, § 87(2)(b). Officer Maribel Sarante, working as the Observation Post of the 77<sup>th</sup> Precinct SNEU team, had been observing him and believed him to have engaged in a drug transaction, and she reported a description of him to the other SNEU officers she was working with (Allegation A). Officers Eddy Linares and John Acconi responded, stopping § 87(2)(b) and § 87(2)(b) on the street and approaching § 87(2)(b) to search and arrest him. § 87(2)(b) resisted being searched or arrested, and when Officer Linares called for backup, Officer Nicholas Tricarico and Sergeant Steven Talvy arrived. § 87(2)(b) physically resisted arrest and § 87(2)(b) tried to interfere with the officers who were struggling with him, and Officers Linares, Acconi, and Tricarico used physical force against § 87(2)(b) (Allegations B, C, and E), and Officer Linares struck § 87(2)(b) several times in the leg with his baton (Allegation D). Officer Linares pushed § 87(2)(b) back (Allegation C) and Sgt. Talvy used minor physical force to try to keep § 87(2)(b) away from the vicinity of § 87(2)(b) and to arrest her when she continued trying to get to § 87(2)(b) (Allegation F).

§ 87(2)(b) and § 87(2)(b) were placed in separate cars to be brought to the 77<sup>th</sup> Precinct stationhouse. § 87(2)(b) alleges that once inside the car, an officer choked him (Allegation G) and told him he was going to kill him (Allegation H), and § 87(2)(b) alleges that while she was being transported, Sgt. Talvy cursed at her and told her she was "retarded" for behaving as she had (Allegation I). § 87(2)(b) alleges that at the stationhouse he was strip-searched by Officers Acconi (Allegation J) and Linares (Allegation K) and § 87(2)(b) alleges she was strip-searched by Officer Sarante (Allegation L).

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that when her purse was returned, \$20 was missing, as well as her house keys. This complaint has been referred to IAB in CCRB # 200708484, IAB referral # 07-23263.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

### Summary of Complaint

§ 87(2)(b) a § 87(2)(b), reported this complaint to the CCRB via the call processing system on March 9, 2007 (encl. 4). He provided a phone statement on March 16, 2007 (encl. 5), and was interviewed at the CCRB on March 23, 2007 (encl. 6). His statements were substantially consistent and are summarized below.

On March 6<sup>th</sup>, at approximately 7 pm, § 87(2)(b) parked his car at the corner of St. John's Place and Albany Avenue in Brooklyn. He was wearing black Dickies and two black hoodies, and a fitted cap. He

had just picked up his girlfriend, § 87(2)(b) from work in Manhattan, and they had driven his green Nissan Maxima up Albany and stopped at a liquor store on Albany, where § 87(2)(b) bought lotto tickets. § 87(2)(b) was wearing a black trench coat. § 87(2)(b) did not speak to anybody at the liquor store, and had not stopped anywhere else. After purchasing the tickets he got back into his car and made a left onto St. John's, where he immediately found a parking spot right next to the bus stop, and parked. He got out of the car and saw an unmarked green Crown Victoria roll up on the opposite side of the street, going the wrong way. He stepped onto the sidewalk, thinking the car was going to pass him. A 5'7" white male officer in plainclothes, wearing a scully hat, in his 30s (identified through investigation as Officer Acconi), and a 6' white male officer in plainclothes with a scully hat (identified through investigation as Officer Linares) got out of the car and Officer Acconi immediately grabbed § 87(2)(b) by the front of his zipped black hoodie and tried to push him against a fence made of iron bars on top of a brick wall. § 87(2)(b) asked what was going on and Officer Acconi told § 87(2)(b) he had just seen him purchasing narcotics. § 87(2)(b) said, "No, you have the wrong person." Officer Acconi put his hands into one of § 87(2)(b)'s pants pockets, and then tried to go into another pocket, but § 87(2)(b) caught his hand and said, "I don't have anything in my pockets for you, why are you going in my pockets?" The officers did not state that they were officers and § 87(2)(b) did not see any badges, he surmised that they were officers because they were claiming to have seen him purchasing narcotics. They did not question him about where he was coming from or going.

Officer Linares started talking, and pulled out a foot long black metal baton, which he then flicked and extended. § 87(2)(b) said, "What are you doing?" and Officer Linares said, "Shut the fuck up, mind your business," and approached § 87(2)(b). § 87(2)(b) stepped in front of him, saying, "Don't hit him," and Officer Linares forcefully pushed her out of the way, so she had to take several steps backwards. § 87(2)(b) said, "Why you pushing my girl, she has nothing to do with this," and told Officer Linares not to push her. He was mad. Officer Acconi started being very aggressive, trying to go into § 87(2)(b)'s pockets some more, and then there was a struggle, and Officer Acconi threw him up against the fence, with his back to the fence. About four more officers arrived in a car, and a third officer, taller and heavier than § 87(2)(b) (who is 6'3" and weighs 250 pounds), white, and bald, (identified through investigation as Officer Tricarico) came from his left and tackled him to the ground. Once he was on the ground, with his face mashed into the pavement, there were about four officers hitting him. He could not see them because he was on his stomach, and he could not do anything to defend himself—he did not strike back at the officers. They were forcefully kneeling him in the back and putting knees on his neck, Officer Linares was hitting him (more than five times) in the left calf with his nightstick while holding his foot, officers were punching him in the face and all over his body. § 87(2)(b) was cuffed and the officers continued hitting him after he was cuffed, while he was screaming and saying, "Yo I'm cuffed already, why are you doing this?" § 87(2)(b) did not strike back at the officers. He lost count how many times he was hit.

An officer (described by § 87(2)(b) as Officer Linares, but identified through investigation as Sgt. Talvy, and therefore referred to here as Sgt. Talvy) threw § 87(2)(b) against the fence, and then down on the ground, and cuffed her and put her in a car. § 87(2)(b) could not really see this happening because he was still on the ground. When the officers lifted him up, she was already in the car. The officers put § 87(2)(b) in a car and Officer Linares § 87(2)(b) described this officer as the large bald officer who had tackled him to the ground, but in a photo array did not identify Officer Tricarico. This investigation has determined that the officer in the back of the car with § 87(2)(b) was Officer Linares, so this officer is referred to here as Officer Linares) got into the back of the car with him, on his left side. As § 87(2)(b) was sitting there rear cuffed, Officer Linares reached his right arm around § 87(2)(b)'s neck, and simultaneously pressed his left fist against the side of § 87(2)(b)'s throat, applying pressure with both so that § 87(2)(b) could not breathe and telling § 87(2)(b) that he was going to kill him. § 87(2)(b) believed that Officer Linares was going to kill him, because he could not breathe, and he said, "I can't breathe." (In his initial complaint and his phone statement, § 87(2)(b) stated that this officer also called him a "motherfucker" at this point, but in his interview, he did not allege any discourtesy towards himself.) Officer Acconi was also in the car. § 87(2)(b) stated that all of the officers on the scene were white males in plainclothes.

At the 77<sup>th</sup> Precinct on Utica Avenue, Officer Linares took everything, including a wallet, change, a few dollars, and a bible, out of § 87(2)(b)'s pockets, and then § 87(2)(b) was taken to a cell. Officer Acconi, Officer Linares, and a white male officer with a blond crew cut (PO4) who § 87(2)(b) thinks may have been on the scene, but is not sure, made § 87(2)(b) remove all of his clothing. They did not touch him.

PO4 fingerprinted § 87(2)(b) and § 87(2)(b) asked him why he was being arrested, and PO4 said it was for resisting arrest.

§ 87(2)(b) was transported to Central Booking by a uniformed white blonde 5'4" female officer and a 5'3" brown skinned possibly Pakistani male officer who were not on the scene. § 87(2)(b) told the female officer, "My ribs hurt, I think I want to go to the doctor," and she told him that if he wants to see a doctor it would take two days, and then he would have to go all the way back to the precinct and then all the way back to Central Booking to see the judge, so he did not persist. § 87(2)(b) spent the whole night in Central Booking and then went upstairs. § 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b). She walked him through and let him out the side door.

§ 87(2)(b) sustained a black and blue knot over his left eye from being punched in the face, bruises on his left foot, and bruises on his left calf from being hit repeatedly with a nightstick. His ribs were sore, his neck was sore from officers putting their knees on his neck, and his right knee hurt from an officer putting his knee into the back of § 87(2)(b)'s knee and pressing it into the pavement, his wrists were swollen and bruised from the handcuffs being too tight, and his left thumb became numb, he thinks also because the handcuffs were so tight. After leaving Central Booking, they went to the hospital on Atlantic Ave. and Kingston Ave. called § 87(2)(b). § 87(2)(b) was given prescription pain killers. At the time of the interview, he was doing physical therapy for his body and his wrists at another clinic.

§ 87(2)(b) a § 87(2)(b), also filed a complaint with the CCRB regarding this incident on March 9, 2007 (encl. 8), and was interviewed at Bryant Park in Manhattan on March 28, 2007 (encl. 9). Her statements were substantially consistent.

§ 87(2)(b) picked up § 87(2)(b) from work, at § 87(2)(b), in his green 1995 Maxima and they drove home to Brooklyn. § 87(2)(b) was wearing black jeans, a black polo shirt, and a grey and black hoodie, and § 87(2)(b) was wearing a black button down shirt with a black sweater over it, grey pants, boots, and a black knee-length jacket. § 87(2)(b) did not commit any traffic infractions driving from Manhattan. They stopped at a liquor store on Albany near the intersection with St. John's Place. § 87(2)(b) got out and went into the liquor store to buy a lottery ticket and § 87(2)(b) remained in the car. § 87(2)(b) was inside the liquor store for 6-10 minutes; it was crowded and a lot of people were buying lottery tickets that day because the prize was big. § 87(2)(b) did not carry anything into the liquor store; when he came out, he was carrying the lottery ticket in his hand. He got into the car, gave the ticket to § 87(2)(b) who put it in her top right side jacket pocket, and § 87(2)(b) turned the car onto St. John's Place. They immediately saw a parking spot next to the bus stop, so § 87(2)(b) put the car in reverse and parked. They were in the car for about ten seconds between the liquor store and the parking spot.

As soon as they got out of the car, § 87(2)(b) saw a black Lincoln coming towards § 87(2)(b). She told him to get onto the sidewalk and be careful because it looked like the car was going to hit him. Two plainclothes male officers got out: a white male, 5'6", stocky, with a mustache and a fuzzy beard, wearing a grey hoodie and jeans (identified through investigation as Officer Acconi); and a white or mixed male, 27 years old, 5'11", wearing a skull cap, jeans, a hoodie, and a jacket (identified through investigation as Officer Linares). Officer Acconi immediately grabbed § 87(2)(b) and said, "I want to search you." § 87(2)(b) said, "What's the problem, officer?" and § 87(2)(b) said, "Okay, what's the problem, just tell us what's going on, and we'll try to cooperate with you as best we can." Officer Linares took out his expandable baton and "flicked it" out. § 87(2)(b) said, "If you just want to ask us something, there's really no need for the baton to come out." The officers said § 87(2)(b) was seen purchasing narcotics. § 87(2)(b) and § 87(2)(b) incredulous, asked when, and the officers said, "Just now." § 87(2)(b) said, "When? When he went in the liquor store to buy a lotto ticket?" Officer Acconi was still holding § 87(2)(b) and trying to push him into a corner formed by the intersection of a fence and a building. Officer Linares responded to § 87(2)(b)'s saying there was no need for his baton by pushing her onto a parked car, while § 87(2)(b) said "take your hands off me, tell me to move but do not touch me," and then going into the corner where § 87(2)(b) and Officer Acconi were.

Suddenly there were more officers there—a 5’8” white male with short reddish light colored hair and a thin beard, wearing a green hoodie (identified through investigation as Sgt. Talvy), and a 6’2” big bald white male wearing a grey sweatshirt and jeans (identified through investigation as Officer Tricarico)—and Sgt. Talvy told her to “step the fuck back,” and pushed her shoulder. § 87(2)(b) said, “Why are you pushing me, if you want me to step back, tell me to step back, do not push me cause you know nothing about me.” At this point § 87(2)(b) could not see § 87(2)(b) because he had been pushed into the corner, but she could hear him screaming. She had her phone out and was unlocking it so that she could call her mother. She continually tried to approach the corner where § 87(2)(b) was screaming on the ground with 5 or 6 officers on top of him, and said, § 87(2)(b) what happened to you, what is going on?” and Sgt. Talvy continually pushed her on her shoulders to get her out of the way and told her to step back, about four times in total. § 87(2)(b) said, “Why the fuck are you pushing me?” and then Sgt. Talvy told her to put her hands behind her back. He then pushed her up against the fence, and then threw her onto the ground, put his knee in her lower back, and handcuffed her. § 87(2)(b) had not been physically combative with the officer, and had just told Sgt. Talvy not to push her. She did not resist being handcuffed, and noted that she could not have resisted because she was on the ground with Sgt. Talvy’s knee in her back. After handcuffing § 87(2)(b) Sgt. Talvy walked her to a patrol car. When she was being put in the car, there were still 5-6 officers on top of § 87(2)(b) and she heard him screaming, “Why you still hitting me when I’m in handcuffs, get off me man, why you still hitting me?” She saw one officer (possibly wearing a grey sweater) leaning with his knee in the back of § 87(2)(b)’s knee, but could not see what the other officers were doing. Officer Tricarico was one of the officers on top of § 87(2)(b). She saw them drag him up and put him into a car. § 87(2)(b) was not searched, and she did not see § 87(2)(b) being searched at the location. § 87(2)(b) later told her that it felt like somebody brought him to the ground by pulling his feet out from under him. § 87(2)(b) noted that a crowd of spectators formed when they heard § 87(2)(b) screaming. They did not intervene and § 87(2)(b) did not recognize any of them. There is a barbershop across the street from where the incident occurred, and the neighborhood is residential.

Officer Tricarico was the driver of the car § 87(2)(b) was in, and Sgt. Talvy was in the passenger seat. While they were driving to the station house, Sgt. Talvy was constantly berating § 87(2)(b) saying, “You’re fucking retarded” and, to Officer Tricarico, “I hope nobody comes to the precinct for her because she’s illiterate, she’s so stupid.” § 87(2)(b) was crying and Sgt. Talvy said, “Keep crying, stupid person.” Sgt. Talvy said to Officer Tricarico, “When we’re finished I think I’m a need to go to the hospital, because she jumped on my back.” He said to § 87(2)(b) “Dumb bitch, you’re gonna do 2 to 5 years felony for hitting a cop.” She arrived at the station house at the same time as § 87(2)(b). She heard Officer Acconi tell Officer Linares, “He’s clean.” She also heard the officers saying something like, “Look at his size, but when he’s on the ground, he’s the same size as all of us.” When they arrived at the station house, Sgt. Talvy put his hands in her pockets and then told a 5’4” possibly Hispanic female officer with black hair in a bun and a long face, dressed in plainclothes, who § 87(2)(b) thought was named “Salter,” who told § 87(2)(b)’s mother she was the arresting officer and who § 87(2)(b) had not seen before (identified through investigation as Officer Sarante), to search her. Though § 87(2)(b) did not recognize Officer Sarante from the scene and had seen only male officers there, Officer Sarante told § 87(2)(b) she had seen her jump on the other officer’s back, and she said to § 87(2)(b) “If you tell a little child, ‘put your hands behind your back,’ the little child puts their hands behind their back—why can’t you just do what the cops say?” Officer Sarante went through § 87(2)(b)’s bag, placing her things on the desk, frisked her, and then took her into the back. Officer Sarante told § 87(2)(b) to pull down her pants, to pull up her shirt and pull out the front of her bra. § 87(2)(b) complied. Officer Sarante did not have any physical contact with § 87(2)(b). An officer who had not been on the scene fingerprinted § 87(2)(b) and told her that the other officer had said the reason why he arrested her was because he kept telling her to go back and she did not go back. He also told her that they were going to run her fingerprints and if they came back clean, they would release her. He also said that the officers had been casing the liquor store all day, and had arrested some people from the liquor store before them. § 87(2)(b) was put in a holding cell. Officer Sarante came and gave her money which had been in § 87(2)(b)’s wallet, but § 87(2)(b) did not count it at the time. She felt sick but they would not let her use the bathroom until she threw up in the corner of the cell. A uniformed female who had been working at the desk made § 87(2)(b) clean up her vomit.

§ 87(2)(b) was taken to Central Booking at about 2 am by another uniformed female officer. While at Central Booking, she discovered that her keys were missing and 20 dollars were missing from her wallet

(she had had 31, and now had 11). § 87(2)(b), § 87(2)(a) 160.50

She and § 87(2)(b) went to § 87(2)(b) Hospital when they were released from Central Booking, on the 7<sup>th</sup>, and had x-rays taken of their backs. She went back to the stationhouse on March 7, 2007, with § 87(2)(b)'s mother to retrieve her keys and money but was not helped. She saw Officer Tricarico at the station house and he said he did not remember her. On § 87(2)(b), she and § 87(2)(b) went to § 87(2)(b) on Eastern Parkway near Clinton Avenue and were both treated. Part of § 87(2)(b)'s thumb was numb.

During her interview § 87(2)(b) drew a diagram of the incident location, and she provided the lottery ticket § 87(2)(b) bought at the liquor store, time stamped 6:58 pm March 6<sup>th</sup>, 2007 (encl. 9e).

### **Results of Investigation**

#### **Officer Eddy Linares**

Officer Eddy Linares was interviewed at the CCRB on June 8 and on September 14, 2007 (encl. 12).

On March 6<sup>th</sup>, 2007, Officer Linares worked from 1400 to 2235 hours on the 77<sup>th</sup> Precinct SNEU team with Officer Acconi. They were operating a black Crown Victoria with tinted windows. Officer Linares does not remember which other officers of the SNEU team were working that day, but the SNEU team includes Officer Lakowski, Officer Acconi, Officer Tison, Officer Carozza, Officer Sarante, Officer Margaritis, Officer Tricarico, and Sgt. Talvy. Officer Linares has no entries in his memo book regarding this incident.

At approximately 7 PM on March 6<sup>th</sup>, 2007, Officers Linares and Acconi received a radio run from the observation post of the SNEU team telling them that § 87(2)(b) had been observed in a hand to hand drug transaction. Officer Linares believes that the observation post officer who put the description over the radio was Officer Sarante, and does not know who she was working with. Generally speaking, the observation post watches the defendant with binoculars, gives a physical description of the defendant and describes what he is wearing from head to toe, and where he is going, and then the receiving officers go and pursue the defendant based on that information. Officer Linares does not recall the description of § 87(2)(b) which was put over the radio, and does not recall if the description stated that he was with a female. The radio description stated that § 87(2)(b) was on foot and then got into a vehicle, and then got out of the vehicle.

Officers Linares and Acconi were parked when they got the description of § 87(2)(b) he does not recall exactly where they were parked but it is normally about a block and a half away from the observation post. They stopped him a couple of minutes after receiving the description, and had observed him for a few seconds before stopping him. The only reason they stopped § 87(2)(b) was because he fit the description provided by the observation post, and the observation post also confirmed it as they were stopping him, saying, "Yes, that's him." When Officer Linares first saw § 87(2)(b) he was by the bus stop at the corner of St. John's and Albany, walking on the sidewalk with a female. They pulled up parallel to § 87(2)(b) and § 87(2)(b) jumped out of the car, verbally identified themselves as police officers (their shields were also exposed) and told § 87(2)(b) that he was observed in a hand to hand drug transaction and was under arrest. § 87(2)(b) immediately started backing up and saying, "No, you're not putting your hands on me. You have no right to do that." Officer Linares called for backup on his radio and told Sgt. Talvy that § 87(2)(b) was "a fighter," he did this because he realized § 87(2)(b) was resisting arrest and also because there were two of them and two officers, and they generally like to have more officers. Officer Acconi approached § 87(2)(b) and tried to grab his hands to put handcuffs on him and § 87(2)(b) pushed him away, saying, "You're not gonna put your hands on me." Officer Acconi did not fall when § 87(2)(b) pushed him, he pushed back and continued physically struggling with him, trying to get § 87(2)(b) in handcuffs, and at that point Officer Linares also approached him and began trying to control his arms to get him in handcuffs. § 87(2)(b) was not responding to their verbal commands to put his hands behind his back and was not responding to their physical attempts to handcuff him. Officer Linares pulled out his baton and repeated, "Stop resisting," Officer Linares struck § 87(2)(b) with the baton several times (he does not remember how many times) in the calf muscle area while § 87(2)(b) was standing up and

continued telling § 87(2)(b) to stop resisting and to put his hands behind his back. While Officer Linares and Officer Acconi were struggling with § 87(2)(b) trying to handcuff him and trying to get him to the ground in order to handcuff him, § 87(2)(b) was grabbing Officer Linares, trying to pull him away from § 87(2)(b) striking him with her hands, and saying, “Don’t touch him, leave him alone, don’t put your hands on him, he did nothing wrong, get off of him...” § 87(2)(b) was also telling them to get off of him and not to touch him. Backup arrived seconds after they began struggling with him. Sgt. Talvy and whoever was driving him arrived in a van; Officer Linares does not recall which other officers were there but they were all part of the SNEU team and in plainclothes. After two other officers joined Officer Linares and Officer Acconi in struggling with § 87(2)(b) they were able to take him onto the ground. There was a brick wall and a fence in the area, but § 87(2)(b) was never put up against the wall or the fence, they took him directly to the ground. After the officers took him to the ground, § 87(2)(b) continued struggling with them and Officer Linares was “wrestling” with him, trying to control his limbs. It took approximately five officers to get § 87(2)(b) handcuffed. Officer Linares did not continue to use his baton on § 87(2)(b) while § 87(2)(b) was on the ground—he was trying to put him in handcuffs. He did not see other officers punch § 87(2)(b) and did not see any officers punch or kick § 87(2)(b) after he was handcuffed. Officer Linares was struggling with § 87(2)(b) and did not see whatever else the other officers trying to restrain him did. He does not recall any other officers using their batons. Officer Linares pointed out that § 87(2)(b) was 6’4” or 6’5”, and about 250 pounds (though this did not influence his decision to use his baton, because if small people are resisting and non-responsive, Officer Linares could and would use his baton, as he is taught to do). § 87(2)(b) continued resisting the whole time and it came down to the officers “getting down with” him, trying to physically overpower him, in order to handcuff him.

§ 87(2)(b) was arrested for obstructing governmental administration; Officer Linares does not know who restrained and handcuffed her because he was dealing with § 87(2)(b) who was on the ground for 1-2 minutes before he was handcuffed, and then he was picked up and patted down. The officers saw that he had no weapons, and he was put in the van and taken back to the stationhouse. Officer Linares does not recall who brought § 87(2)(b) to the van or who else was in the van that transported § 87(2)(b) to the precinct, besides Sgt. Talvy. Officer Linares does not know if § 87(2)(b) was also taken to the precinct in the van or in another car, he did not transport her to the precinct. Officer Linares did not have any contact with § 87(2)(b) at the precinct. Officer Linares was not injured during this encounter, and does not recall any other officers being injured. He does not know if § 87(2)(b) received medical treatment or recall § 87(2)(b) being taken to the hospital, and did not observe any physical injuries to § 87(2)(b). Officer Linares does not know whether Sgt. Talvy knew he had used his baton, he did not tell Sgt. Talvy that he used it. Back at the station house, § 87(2)(b) apologized to Officer Linares several times, saying, “I’m sorry, I should have let you do your job.” They told him it was nothing personal and that if he would have let them do their job, he probably would have been released from the station house because they did not find drugs on him. § 87(2)(b) was a “complete gentleman” for the rest of the night and they did not have any problems with him.

No drugs were recovered. Officer Linares pointed out that a large crowd gathered while they were arresting § 87(2)(b) and that if it was crack cocaine, people would have just picked the drugs up. Officer Acconi did not search § 87(2)(b) on the scene, § 87(2)(b) did not give them a chance to search him, he said, “You’re not doing that.” The area that the observation post was observing is a drug prone location where crack cocaine, heroin, and marijuana are sold, and the observation post is regularly set up in that area. Normally the arrest goes to the observation post who observes the hand to hand transaction.

Officer Linares does not recall any details of his interactions with § 87(2)(b) at the stationhouse. He stated that he probably got his pedigree information, and that it would be procedure to search him at the command, but he does not specifically remember doing either of those things. He knows that he spoke to § 87(2)(b) and that § 87(2)(b) apologized to him several times. Officer Linares has no recollection of strip searching § 87(2)(b). He does not know if a strip search was authorized, and said that the sergeant would know about that and it would be noted in the command log. He does not know if the female was strip searched, and stated he would not have known anything about a strip search or be involved in a strip search of a female.

Officer Linares had been on the SNEU team for a year and a half at the time of incident.

**Officer John Acconi**

Officer John Acconi was interviewed at the CCRB on July 27, 2007 (encl. 14).

On March 6, 2007, Officer Acconi worked from 1400 to 2230 hours doing SNEU operations with Officer Linares in an unmarked Crown Victoria. He was in uniform. He has no memo book entries regarding this incident.

They were conducting a SNEU operation at a drug prone location where Officer Acconi has conducted SNEU operations hundreds of times. Generally speaking, the Observation Post (OP) sets up on a rooftop or in a surveillance vehicle—in this case, in a vehicle—and two catch cars wait about a block away from the OP, until the OP gives them a description of a perpetrator and a direction of travel, at which point the officers from one of the catch cars approach the perpetrator. Officers Acconi and Linares got a radio transmission on his point-to-point from the Observation Post regarding a black male who had purchased narcotics. The male was described as very tall, and as parking a vehicle and then walking, and a description of the vehicle and the male's direction of travel was provided. The OP did not lose sight of § 87(2)(b) and confirmed that it was the right person after Officers Acconi and Linares stopped him. Officer Acconi does not remember who the OP was.

When Officer Acconi first observed § 87(2)(b) he was walking eastbound on the sidewalk with a female § 87(2)(b). Officer Acconi described § 87(2)(b) as 6'8"-6'9", 350 pounds, and said he fit the description perfectly. Officer Acconi approached § 87(2)(b) and explained to him that they were part of a narcotics team and that he had been observed purchasing narcotics, and he reached towards § 87(2)(b)'s pockets with the intention of searching them. § 87(2)(b) said, "There's no fuckin' way you're searching me," and Officer Acconi repeated that he was searching him for narcotics. § 87(2)(b) said that he "understood all of that" but that Officer Acconi was "still not fuckin' searching him." As he was talking to § 87(2)(b) Officer Acconi was attempting to search his pockets, and the first physical contact they had occurred when § 87(2)(b) grabbed his arm and pulled it away from himself. Officer Acconi told § 87(2)(b) that if he had not purchased narcotics, he had nothing to worry about and that he would be "out of his way" in a few minutes if he let him do his job, but that he was not going to just leave because § 87(2)(b) did not want to be searched. § 87(2)(b) kept repeating that there was no way he would let Officer Acconi search him, and he grabbed Officer Acconi by his uniform shirt and tried to throw him to the ground, and then Officer Acconi grabbed § 87(2)(b) and tried to throw him to the ground, and then tried to push him up against a metal fence behind him. Officer Acconi pointed out that while § 87(2)(b) is approximately 6'8", he himself is 5'4", so that situation did not "work in [his] favor."

By that time, Officer Linares had called for backup. While Officer Acconi was talking to and then physically struggling with § 87(2)(b) Officer Linares had been dealing with § 87(2)(b) originally tried to get between Officer Acconi and § 87(2)(b) and Officer Linares told her to step back from the situation. Officer Acconi stated that § 87(2)(b) was fighting with Officer Linares, but that he could not describe what happened between them because they were behind him, and he never took his eyes off § 87(2)(b). He heard § 87(2)(b) "yelling and screaming," saying, "Get the fuck away from him, leave us alone, what the fuck are you doing this to us for, we didn't do anything," and heard Officer Linares telling her to back up. Sergeant Talvy and another officer from the SNEU team, Officer Acconi does not remember which, responded. They were the only officers in addition to Officer Acconi and Officer Linares who responded to the scene. When they arrived, Officer Acconi was still struggling with § 87(2)(b) trying to push him against the fence, and Sgt. Talvy assisted Officer Acconi in physically arresting § 87(2)(b) and Officer Linares also physically engaged § 87(2)(b). It took the three of them to eventually get him onto the ground and get handcuffed. Officer Linares struck § 87(2)(b) a few times in the leg with his asp. Officer Acconi did not use his asp. Officer Acconi does not specifically remember how § 87(2)(b) ended up on the ground; he did not see any officer pull his feet out from under him. It took about three minutes of struggling with § 87(2)(b) to get him on the ground, and once he was on the ground, he continued to struggle, trying to push the officers off of him and get up. Officer Acconi lay on top of him, across his back, while Officer Linares and another officer tried to handcuff him. § 87(2)(b)'s hands were underneath him and Officer Acconi was trying to get them out so he could be cuffed. No officer punched § 87(2)(b) or struck him after he was handcuffed, and Officer Acconi did not hear § 87(2)(b) complain.



about being hit after he was cuffed. Officer Acconi believes it was necessary to use two sets of handcuffs linked together to cuff § 87(2)(b) because of his size. After § 87(2)(b) was handcuffed, Officer Acconi looked around the area to see if they had dropped anything, but did not find any contraband. He believes Officer Linares may have also looked around.

Officer Acconi did not see what was going on with § 87(2)(b) while he was arresting § 87(2)(b) and after the original stop did not see her again until they were at the stationhouse. After § 87(2)(b) was handcuffed, he was more subdued but not completely compliant—he refused to get into the car (Officer Acconi and Officer Linares put him in their car), the officers “had to talk him into getting into the car and everything” because since he was so large, it was hard to force him to do anything he did not want to do. Officer Acconi believes no other officers rode in the car with himself, Officer Linares, and § 87(2)(b) back to the stationhouse, and stated that as he was the driver, Officer Linares would have ridden in the rear with § 87(2)(b). He did not see Officer Linares wrap his arm around § 87(2)(b)'s neck inside the car or hear Officer Linares say he was going to kill § 87(2)(b) or call him a “motherfucker,” and Officer Acconi did not use any discourteous language with § 87(2)(b) at all or hear any other officer use discourteous language throughout the incident.

At the stationhouse, Officer Acconi observed “maybe some bumps and bruises” on § 87(2)(b)'s face which were not there when they stopped him and which may have been from his face hitting the ground when the officers “tackled” him, but he is not sure of what exactly caused them. He did not observe any other injury to § 87(2)(b). Officer Acconi did not search or strip search § 87(2)(b) at the stationhouse, and does not know if he was strip searched, and noted that he would not necessarily know if § 87(2)(b) had been strip searched. He also does not know if § 87(2)(b) was searched or strip searched. He stated that when a strip search is conducted, it must be authorized by Sgt. Talvy, and it should be noted in the command log. After § 87(2)(b) and § 87(2)(b) were taken to the stationhouse, Officer Acconi and Officer Linares went back to the location and searched their vehicle. Officer Acconi searched the driver and passenger seats, the glove box, and all of the areas accessible to the driver and passenger. He does not know where Officer Linares searched. They did not recover anything, secured the car and left it.

Officer Acconi stated he believed the amount of force he and other officers used against § 87(2)(b) was appropriate, considering § 87(2)(b)'s size, and stated, “We use everything that we can verbally before we have to go to any kind of physical activity with anybody.”

#### **Officer Nicholas Tricarico**

Officer Nicholas Tricarico was interviewed at the CCRB on August 2, 2007 (encl. 18).

On March 6<sup>th</sup>, 2007, Officer Tricarico worked from 1400 to 2235 hours with Sergeant Talvy, conducting a SNEU operation. They were working out of a marked prisoner van, and Officer Tricarico was the driver. Officer Tricarico believes he was in uniform. He has no memo book entries regarding this incident.

Sgt. Talvy and Officer Tricarico were in the prisoner van on Eastern Parkway when Officer Linares put over a call to them for help dealing with a perpetrator. They had received the original call from the observation post and knew that Officers Linares and Acconi were stopping people in response, but Officer Tricarico does not know the details of the observation posts radio run and he does not know what the perpetrator was originally being arrested for. His attention was drawn to the situation when he received the call from Officer Linares asking for help. Officer Linares said they needed help because the perpetrator was very big, approximately 6’5” and 300 pounds. The sound of Officer Linares’s voice was agitated and not calm, and it seemed like they might be having a problem. It took Officer Tricarico and Sgt. Talvy 3-5 minutes to get to the scene after receiving the call from Officer Linares.

When they arrived, Officer Tricarico observed § 87(2)(b) standing, physically engaged with both Officer Linares and Officer Acconi. He was moving and pushing them off of him, and they were trying to control him and get him into handcuffs. § 87(2)(b) was prohibiting them from handcuffing him by flailing his arms and pushing them, and was refusing to be cuffed. When Officer Tricarico arrived, Officers Linares and Acconi had not managed to cuff him at all yet, and Officer Tricarico joined them in trying to control and handcuff § 87(2)(b). When they arrived, § 87(2)(b) was interfering with Officers Linares and

Acconi and was trying to get them off of him. Sgt. Talvy approached her and tried to get her away from the officers who were dealing with § 87(2)(b). Officers Linares, Acconi, and Tricarico ordered § 87(2)(b) to get onto the ground so that it would be easier to cuff him, and they tried to get him down slowly, on one knee and then the other. They finally got him onto the ground by pushing him onto the ground somehow—Officer Tricarico does not recall exactly how he got onto the ground, except that he did not fall. Officer Tricarico does not recall if § 87(2)(b) ended up on his stomach.

After getting him onto the ground, Officers Tricarico, Linares, and Acconi were still struggling with § 87(2)(b) to handcuff him, and they managed to get a cuff on one hand but he was still hiding the other hand. They got the other hand out a couple of minutes later but had to double cuff him because his hands would not reach together behind his back. Officer Tricarico did not use a baton and does not recall if either Officer Acconi or Officer Linares used a baton or had their baton out. He did not punch § 87(2)(b) or see the other officers punch him. Officer Tricarico carries an extendable asp. It felt to Officer Tricarico like it took 10-15 minutes of struggling with § 87(2)(b) to get him handcuffed. During the course of the struggle, Officer Tricarico repeated verbal commands, “Put your hands behind your back, get down, get down, stop resisting,” many times, and he as well as all of the other officers also gave verbal commands to § 87(2)(b) to step back. Officer Tricarico does not recall if § 87(2)(b) was talking or yelling, and he does not recall § 87(2)(b) saying anything about already being handcuffed while the officers continued struggling with him. While they were struggling with § 87(2)(b) on the ground, § 87(2)(b) was struggling with and pushing Sgt. Talvy, and at one point she pushed him away and came towards them and almost got onto one of their backs—Officer Tricarico turned his head and saw her do this—but Sgt. Talvy grabbed her before she could get to them. Other than this instance, Officer Tricarico was not paying attention to what was going on with § 87(2)(b) and did not see how Sgt. Talvy was interacting with her. By the time they got § 87(2)(b) handcuffed, § 87(2)(b) was already cuffed and was being brought to the van. Officer Tricarico did not see § 87(2)(b) searched on the scene and does not know if he was searched on the scene.

Officer Tricarico and Sgt. Talvy transported § 87(2)(b) back to the station house in the van. They purposely transported her and § 87(2)(b) in separate vehicles. Officer Tricarico first stated he did not have any conversation with § 87(2)(b) in the van. He did not call her “retarded” or a “stupid bitch,” and he did not yell at her for resisting or say anything about her serving 2-5 years for jumping on a cop, and he did not hear Sgt. Talvy say any of these things. He does not recall if § 87(2)(b) was crying in the van. She was still very “amped” and agitated, and kept asking why she was being arrested. Officer Tricarico stated they told her it was because they gave her enough time to back away and she obstructed government officials.

Officers Tricarico, Linares, Acconi, and Sgt. Talvy were the only officers who responded to this scene. Officer Tricarico does not know how § 87(2)(b) was transported to the stationhouse. His only interaction with either § 87(2)(b) or § 87(2)(b) after arriving at the stationhouse was to get their pedigree information. He did not search either of them at all and does not know if they were strip searched. Had they been strip searched, the search would have to have been authorized by Sgt. Talvy. Officer Tricarico did not return to the area to search the car after the incident, and he does not know if any officer searched the area where the arrest occurred at the time of the incident. Officer Tricarico was only involved in helping to handcuff § 87(2)(b); he was not involved in investigating the crime.

### **Sergeant Steven Talvy**

Sergeant Steven Talvy was interviewed at the CCRB on July 25, 2007 (encl. 16).

On March 6<sup>th</sup>, 2007, Sgt. Talvy worked from 1:30 to 10:30 pm as a SNEU supervisor. He was working with Officer Tricarico out of marked van #5871 and he thinks he was in uniform but is not sure. His memo book entries read: 1845-- SNEU operation St. John's/ Albany Ave. 1930—2 under to S.H.

At 1845 hours, they started the set in the vicinity of Kingston Avenue and Lincoln Place. They were conducting a SNEU operation in a drug prone location for which they had received numerous community complaints and in which they had made numerous arrests for a variety of drugs. The observation post, Officers Margaritis and Sarante, who were in a surveillance vehicle, put over a description. Sgt. Talvy believes it was Officer Sarante who gave the description and he does not remember the contents of the description, but noted it usually includes the clothing, height, and weight of the perpetrator. He recalls that

a vehicle was mentioned, and noted that if the person buying drugs was observed with another person, that information would be included in the OP's description. The catch car of the SNEU team, Officers Linares and Acconi, went over to apprehend the perpetrator and Sgt. Talvy and Officer Tricarico arrived while Officers Linares and Acconi were trying to apprehend and handcuff § 87(2)(b) was not letting the officers handcuff him—he was flailing his arms and fighting. While Officers Linares and Acconi were fighting with § 87(2)(b) the OP drove by and witnessed the fight, but Sgt. Talvy told them to drive off because they were in an unmarked car. There was definitely no mistake to the identification of the suspect, § 87(2)(b) was definitely the person who had been described by the OP.

When they arrived, 3-5 minutes after hearing the description from the OP, § 87(2)(b) was standing and Officers Linares and Acconi were trying to grab his arms and put them behind his back. § 87(2)(b) was jumping on Officer Linares's back. Officer Tricarico went to help Officers Linares and Acconi with § 87(2)(b) and grabbed § 87(2)(b)'s shoulders, and Sgt. Talvy tried to remove § 87(2)(b) and keep her from jumping on Officer Linares. Trying to keep § 87(2)(b) away from § 87(2)(b) and the other officers, Sgt. Talvy did not see exactly what was happening with § 87(2)(b). He heard the officers tell § 87(2)(b) "Put your hands behind your back, you're under arrest," several times. Sgt. Talvy pulled § 87(2)(b) by her shoulder and told her numerous times to stay away from the scene. After initially speaking with her, Sgt. Talvy thought she seemed like a nice girl, and he was not planning to arrest her. He realized she was trying to protect her boyfriend, and trying to see what was happening with him. However, he kept telling her to get out of the mix, saying, "Get away, get away, stay back, stay back," but she would not do so, so eventually he had no choice but to place her under arrest. Sgt. Talvy did use force, the minimal amount of force necessary—"which wasn't a lot"—to arrest her, because she began fighting Sgt. Talvy, flailing and trying to get away from him, when he tried to arrest her. He did not put her up against a wall or a fence, but took her to the ground in order to handcuff her. Though she had already assaulted a police officer by jumping on Officer Linares, Sgt. Talvy did not charge her with assault because Officer Linares was not injured, and did not obtain medical treatment.

Sgt. Talvy did not see how § 87(2)(b) got onto the ground. When he turned around after cuffing § 87(2)(b) was already cuffed, though still on the ground. He does not recall exactly where Officers Linares, Acconi, and Tricarico were at that point—generally, they were trying to get § 87(2)(b) up and put him in the car. Sgt. Talvy did not see any officer use a baton and he did not see any officer punch § 87(2)(b). He did not see any officer strike § 87(2)(b) after he was handcuffed. Sgt. Talvy did not observe any physical injury to § 87(2)(b) at any point, nor did § 87(2)(b) complain of injury to Sgt. Talvy, or to any other officers as far as Sgt. Talvy knows. Sgt. Talvy believes that the amount of force Officers Linares, Acconi, and Tricarico used to arrest § 87(2)(b) was appropriate, because § 87(2)(b) was resisting and is particularly large—approximately 6'4" and 270 pounds—and it took all three officers to handcuff him, even though they are pretty large (though Officer Acconi is small in stature) and "physically good guys."

Sgt. Talvy stated officers canvassed the area to retrieve narcotics but found nothing. He stated he is sure § 87(2)(b) was searched on the scene but he did not actually observe § 87(2)(b) being searched. Sgt. Talvy believes § 87(2)(b) was transported to the stationhouse by himself and Officer Tricarico in the prisoner van, because as it is the designated prisoner van, that is what usually happens, but he does not specifically recall if he took him in the van. He does not recall an officer sitting in the back of the van with § 87(2)(b) or any officer putting him in a headlock or wrapping an arm around his neck. § 87(2)(b) was compliant and not argumentative after he was handcuffed. Sgt. Talvy does not remember details of what happened after the arrest was affected, because they arrest about 600 people a year. He did not hear any officer say, "I'm gonna kill you, motherfucker," to § 87(2)(b) he himself did not ever use any discourteous language to § 87(2)(b) or § 87(2)(b) and he did not hear any other officers use such language.

Sgt. Talvy's role once they returned to the stationhouse was administrative, at the desk. He knows § 87(2)(b) was searched thoroughly at the stationhouse, without any articles of his clothing being removed, because that is the procedure, and stated § 87(2)(b) would have been searched by one of the officers who brought him in, but Sgt. Talvy does not recall witnessing § 87(2)(b) being searched. § 87(2)(b) was not strip searched: There was no necessity for a strip search, and in order for a strip search to occur, Sgt. Talvy

would have to have authorized it, and would have made an entry in the command log next to the arrest entry noting the strip search, but he did not do either of these things. § 87(2)(b) was not strip searched either: he would have had to authorize that as well, and he did not. § 87(2)(b) was searched thoroughly for weapons and contraband by Officer Sarante, the only female in the unit. Sgt. Talvy did not observe Officer Sarante searching § 87(2)(b) he is not allowed to observe a search of a female—but knows Officer Sarante conducted a search. Sgt. Talvy does not specifically recall what § 87(2)(b) and § 87(2)(b) s behavior was like at the stationhouse, other than that they were a little irate about the arrest. He does not recall § 87(2)(b) ever requesting medical attention.

Sgt. Talvy has been a SNEU sergeant for four years.

### **Officer Maribel Sarante**

Officer Maribel Sarante was interviewed at the CCRB on December 7, 2007 (encl. 20).

On March 6, 2007, Officer Maribel Sarante worked on a SNEU assignment from 1400 to 2235 hours with Officer Margaritis in an unmarked car. She was in plainclothes. Her memo book reads: 1915 2 under from Southeast corner of St. Johns Place and Albany Avenue: § 87(2)(b)

At approximately 7 pm on March 6, 2007, Officer Sarante and Officer Margaritis were parked in their vehicle at the curb of the southeast corner of St. Johns Place and Albany Avenue. At the corner there was a liquor store, which is a drug prone location, and they have frequently set up SNEU assignments at this location. Officer Sarante observed § 87(2)(b) pull up to the location in a car, enter the liquor store, and then engage in a hand-to-hand drug transaction. Officer Sarante first stated that § 87(2)(b) was on the sidewalk about six feet away from her car when she observed him in the transaction, and later stated that he engaged in the transaction after he entered the store, and then explained that the door to the liquor store is transparent, and she thought that the transaction occurred “in between the door and the sidewalk, like right there...” i.e., in the doorway of the store. After making the transaction, § 87(2)(b) got back in his car, and then Officer Sarante put over a description to the other SNEU officers on her point-to-point radio. Officer Sarante gave a description of § 87(2)(b) s car, including its color, make, and direction of travel, stated that she did not recall if she may have said, “male black,” and that the description she gave focused on the vehicle. Officer Sarante stated that since Officer Margaritis was in the car with her, she is sure he also observed the transaction, but she is the person who gave the description. She observed that there was another person in § 87(2)(b) s car and included this information in her description, but she did not specify if the person was a female, because she could not clearly see who the person was. Officer Sarante could not recall a description of the dealer involved in the transaction, and stated that the dealer did not get arrested, “cause after this whole thing happened, the sergeant, I believe he said to go back to the precinct or something, I don’t recall.”

Officer Sarante did not see § 87(2)(b) again until she saw him briefly at the stationhouse after he had been arrested. She did not confirm his identity to the other officers who apprehended him, and she did not drive by the location where he was being apprehended. She was not present for his arrest. At the stationhouse, she saw him but did not have any interactions with him. She saw the female who was with him, and searched her in front of the desk, because she was under arrest. She took everything out of § 87(2)(b) s pockets that she could not have in the cell, and held her property. § 87(2)(b) made a phone call to her mother so her mother could come and get her property. Officer Sarante did not have § 87(2)(b) remove any articles of her clothing or lift up her shirt, pull down her pants, or pull out or shake out her bra.

No contraband was recovered from § 87(2)(b) or § 87(2)(b) Officer Sarante stated that she thought she would recognize a photograph of § 87(2)(b) and when showed a photo, said that she did recognize him but that she recalled him having longer braids.

### **Medical Records**

§ 87(2)(b)  
The medical record from § 87(2)(b) for § 87(2)(b) indicates that he checked into the center at § 87(2)(b) (encl. 21). He complained of a whole body ache, and stated that the

previous night he was assaulted by the police and consequently has pain throughout his body, and particularly in his right knee. He stated that he was kicked in his knee, hit with a metal stick, that he cannot feel his left thumb, that his ribs and neck hurt, and that he had a headache and throbbing pain at his left eye. He rated his pain level 8 out of 10. Visible injuries noted consist of a bruise on his forehead and swelling of his left upper eyelid, bruising on his wrist, moderate swelling on his right knee, bruises on his lower left leg. § 87(2)(b)'s right knee was x-rayed and determined not to be fractured. He was given a prescription for Ibuprofen. His medical records from the § 87(2)(b) indicate he was examined there on § 87(2)(b). He was diagnosed with cervical radiculitis, a sprain in the lumbar region, a lower leg injury, a wrist sprain, derangement of the left knee, and post traumatic stress disorder. His statements indicate that he had pain in his neck, back, wrist, and knee, spasms in his back and numbness in his left thumb. He also had flashback of the trauma, phobic responses to the sight of police, anxiety attacks, and nightmares, and was referred for psychiatric evaluation. He is described as partially disabled by the incident. His statements included in the medical report relate the incident-- his being approached by undercover officers and assaulted and beaten, arrested, jailed, and released the next day without being charged. His statement included the fact that he was choked while handcuffed in the car and that an officer said he would kill him. He had bruises on his knee from being repeatedly beaten with a baton. He was treated with physical therapy at the § 87(2)(b) two to three times weekly between § 87(2)(b) (this may have continued past the time when the record was sent to the CCRB, there is no indication that the physical therapy was discontinued). The physical therapy consisted of therapeutic massage therapy, paraffin baths, and moist heat.

§ 87(2)(b)

The medical records from § 87(2)(b) for § 87(2)(b) indicates that she checked into the center at § 87(2)(b) (encl. 22). She complained of lower back pain and bruising on her hands. She stated that she had been assaulted by the police the previous night. It is noted that "ambulation is difficult" but that there is no swelling, deformity, or discoloration. She rated her pain level 5 out of 10. § 87(2)(b)'s back was x-rayed and determined not to be broken. She was given a prescription for Motrin. Records from the § 87(2)(b) indicate § 87(2)(b) was examined there on § 87(2)(b). She was diagnosed with thoracic radiculitis and a sprain in the lumbar region, and post traumatic stress disorder. § 87(2)(b), § 87(2)(e), § 87(2)(f)

§ 87(2)(b) She stated that she did not know they were officers because they did not identify themselves. The record indicates that she was crying when she related the story, and that she suffered from anger, anxiety attacks, crying spells, and fear of going out. She had headaches and radiating pain in her back. She was recommended for a psychiatric evaluation, and was treated with physical therapy at the § 87(2)(b) two to three times a week between § 87(2)(b) (as with § 87(2)(b) the therapy may have continued past this date). Her physical therapy consisted of therapeutic massage, moist heat, and once, low voltage electrical stimulation.

### Photo Array

On May 11, 2007, § 87(2)(b) and § 87(2)(b) independently viewed a photo array containing photographs of the officers in the SNEU team and filler photographs (encls. 7 and 10). § 87(2)(b) identified Officer Sarante as the female officer who she interacted with at the precinct, who searched her bag and her person and told her she was the arresting officer, although § 87(2)(b) had not seen her before. § 87(2)(b) recognized Officer Acconi and Officer Linares as the first two officers who stopped them, stating Officer Acconi grabbed § 87(2)(b) and pushed him into the corner, and Officer Linares used his baton. § 87(2)(b) only recognized Officer Linares, stating that he might have been one of the first officers who stopped them.

### Canvass

On April 17, 2007, the undersigned investigator canvassed the area around St. John's Place and Albany Avenue (encl. 29). Four commercial establishments at that corner, including the barbershop mentioned by § 87(2)(b) and the liquor store, were entered and witnesses were sought. One barber said that he remembered the incident, which he described as "a big guy being beaten up by the cops" but said he was cutting someone's hair at the time and did not witness the incident. Canvass letters were left in several locations but no witnesses contacted the investigator. Photographs of the incident location are enclosed.

### **Officers Not Interviewed**

Officer Margaritis, Officer Sarante's partner during this incident, was not interviewed in this investigation because it has been determined that his statement would not affect the recommendations regarding any allegations in this case, in particular Allegation A, the stop, as Officer Sarante was acting as the Observation Point officer and stated that she observed the drug transaction and she was the one who put over the description of § 87(2)(b).

### **Police Documents**

Roll Call for the 77<sup>th</sup> Precinct, Tour 3, on March 6, 2007, indicates that Officer Carozza, Officer Margaritis, Officer Linares, Officer Acconi, Officer Tricarico, and Officer Sarante were working as SNEU Team #1, and Sergeant Talvy was assigned as the SNEU Team #1 supervisor (encl. 25).

UF61 # § 87(2)(b), classified as Obstruction of Governmental Administration, records the arrests of § 87(2)(b) (sic) and § 87(2)(b) at the northwest corner of Albany Avenue and St. Johns Place at 6:50 pm on March 6, 2007. The narrative reads, "At T/P/O the deft. was observed in a hand to hand drug transaction exchanging USC for an object pursuant to a SNEU operation. Deft. was cursing & screaming causing a public alarm. Deft. did also resist arrest by flaring arms, kicking, punching, & refusing to be cuffed." The UF61 was reported by Officer Sarante and the supervisor was Sgt. Talvy (encl. 23).

The OLBS for § 87(2)(b) has the same narrative and indicates he was arrested by Officer Sarante at 7:15 pm for resisting arrest and for disorderly conduct, using obscene language and gestures. The OLBS report indicates that physical force was used to restrain, control, and remove § 87(2)(b). The OLBS for § 87(2)(b) indicates that she was arrested by Officer Sarante at 7:15 pm on March 6, 2007, for resisting arrest and for obstruction of governmental administration. The details read, "At T/P/O while attempting to place deft's boyfriend under arrest deft. did jump on officer to prevent them from placing him under arrest. Deft. did then resist arrest by flaring arms, kicking, & refusing to be cuffed." Force was used to restrain, control, and remove § 87(2)(b) (encl. 24).

The 77<sup>th</sup> Precinct Command Log for March 6, 2007, indicates that § 87(2)(b) and § 87(2)(b) were brought in at 7:30 pm. Facial bruising is noted in the entry for § 87(2)(b)'s state is "apparently normal." There were no notes indicating whether the two were strip searched (encl. 26).

### **BADS/Criminal Court**

The arrests made on the incident date are not recorded in BADS.

§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

§ 87(2)(b) has no criminal history in New York City.

### **Civilian CCRB Histories**

This is the first CCRB complaint § 87(2)(b) or § 87(2)(b) has been involved in (encl. 2).

### **Officer CCRB Histories**

Officers Linares, Acconi, Sarante, and Tricarico have no substantiated CCRB allegations against them. Sergeant Talvy was cited for § 87(2)(g), § 87(4-b) he has no other substantiated CCRB complaints (encl. 1).

## **Conclusions and Recommendations**

### **Officer Identification**



§ 87(2)(b), § 87(2)(g)

**Allegation A) Abuse of Authority: Officer Maribel Sarante stopped § 87(2)(b) and § 87(2)(b)**

§ 87(2)(b), § 87(2)(g)

**Allegation B) Force: Officer John Acconi used physical force against § 87(2)(b)**

**Allegation C) Force: Officer Eddy Linares used physical force against § 87(2)(b) and § 87(2)(b)**

**Allegation D) Force: Officer Eddy Linares struck § 87(2)(b) with an asp.**

**Allegation E) Force: Officer Nicholas Tricarico used physical force against § 87(2)(b)**

**Allegation F) Force: Sergeant Steven Talvy used physical force against § 87(2)(b)**

In this incident, Officers Acconi and Linares approached § 87(2)(b) intending to arrest him, with probable cause to arrest him generated by the information Officer Sarante had given. § 87(2)(b) and § 87(2)(b) themselves acknowledged doing the things which the officers stated provoked them to use force: § 87(2)(b) verbally and physically resisted Officer Acconi's attempts to search and to arrest him, and § 87(2)(b) interfered with the arrest of § 87(2)(b) by repeatedly trying to approach the area where he was. Although § 87(2)(b) and § 87(2)(b) did obtain medical treatment for their injuries, neither was seriously injured, and their injuries are consistent with the amount of force the officers acknowledged using § 87(2)(b), § 87(2)(g)

**Allegation G) Force: Officer Eddy Linares used a chokehold against § 87(2)(b)**

§ 87(2)(g)

**Allegation H) Abuse of Authority: Officer Eddy Linares threatened § 87(2)(b) with the use of force.**



§ 87(2)(g)

**Allegation I) Discourtesy: Sergeant Steven Talvy spoke obscenely to** § 87(2)(b)

§ 87(2)(g)

**Allegation J) Abuse of Authority: Officer John Acconi strip-searched** § 87(2)(b)

§ 87(2)(g)

**Allegation K) Abuse of Authority: Officer Eddy Linares strip-searched** § 87(2)(b)

§ 87(2)(g)

**Allegation L) Abuse of Authority: Officer Maribel Sarante strip-searched** § 87(2)(b)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: